

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAUL S. ZAVALA,

Defendant.

NO: CR-05-00105-LRS-1

ORDER APPOINTING COUNSEL

Pursuant to the provisions of the Criminal Justice Act (“CJA”), 18 U.S.C. §§ 3006A(a)(1) and (c), and in accordance with the retroactive application of U.S. Sentencing Commission’s Amendment 782, the Office of the Federal Defender for the Eastern District of Washington (“Federal Defender’s Office”) is appointed to represent Defendant.

The Federal Defender’s Office shall ascertain Defendant’s initial eligibility for relief and whether conflicts of interest preclude the Federal Defender’s Office from representation. The Federal Defender’s Office shall file notice with the Court immediately upon identifying a prohibitive conflict in which Defendant’s interests

are materially adverse to those of a current or former client so that the Court may appoint a CJA attorney to represent Defendant.

The appointment of counsel is limited to the potential reduction of sentence pursuant to Amendment 782 and will terminate upon the Court's ruling on a motion to reduce Defendant's sentence, unless otherwise ordered by the Court. If defense counsel and Defendant choose not to file a motion under Amendment 782, defense counsel shall file a notice to that effect. If a defendant for whom counsel has been appointed chooses to proceed *pro se*, defense counsel shall file a notice to that effect and also shall certify that the defendant has been advised that other counsel will not be appointed. Counsel's appointment shall terminate on filing of either a notice not to seek a reduced sentence or a defendant's decision to proceed *pro se*.

If possible, the Federal Defender's Office shall determine whether there is a conflict prior to obtaining documents from Defendant's case file that are not otherwise available through the judiciary's Public Access to Court Electronic Records ("PACER") service. The Federal Defender's Office, or any appointed attorney receiving any documents from Defendant's case file that are not otherwise available through PACER, shall not distribute such documents unless otherwise ordered by the Court. Furthermore, in accordance with the policies of the Federal Bureau of Prisons, no Plea Agreements, Judgments, Presentence Investigation Reports or Addendums, or Statements of Reasons shall be provided to inmates.

Proceedings on the motions will follow this schedule:

1. Within **two (2) weeks** of the filing of this Order, the Clerk's Office is ordered to disclose to defense counsel and counsel for the Government the following documents: Defendant's Plea Agreement, Presentence Investigation Reports and Addendums, Judgments, Orders Reducing Sentences pursuant to U.S.S.G. §5K1.1 or Fed. R. Crim. P. 35, and Statements of Reasons.
2. Unless the Court previously determined that Defendant was eligible for court-appointed counsel, defense counsel shall file a financial affidavit for Defendant within **thirty (30) days** of this Order to establish financial eligibility under 18 U.S.C. § 3006A.
3. Within **sixty (60) days** of this Order, one of the following documents shall be filed:
  - a. Notice by defense counsel advising the Court that Amendment 782 has no effect on Defendant's sentence and an explanation of why Defendant does not qualify.
  - b. A stipulated motion notifying the Court: (1) that the parties agree that a sentence reduction is appropriate pursuant to Amendment 782; (2) the amount of the requested reduction; and (3) the reasons for the requested reduction. The Court will not be bound by the parties' stipulation.

c. If the parties do not file a stipulated motion, Defendant shall file a motion for reduction of sentence, identifying: (1) the effect of Amendment 782 on Defendant's U.S. Sentencing Guideline range, (2) the requested sentence reduction, and (3) the basis for the reduction. Briefing shall be filed in accordance with Local Rule 7.1. The motion shall be set for hearing without oral argument **thirty (30) days** after the motion is filed. If an expedited hearing is necessary, a party may move to expedite the process.

The District Court Executive is directed to file this Order and provide copies to counsel.

**IT IS SO ORDERED.**

**DATED** this 20<sup>th</sup> day of May, 2015.

*s/Lonny R. Sukko*

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LONNY R. SUKO  
Senior United States District Judge